

DATE: April 9, 1998

SUBJECT: REMAND FROM THE UNITED STATES SUPREME COURT

1. In general.

A remand from the United States Supreme Court is referred to the panel or to the en banc court that decided the matter.

2. Referral.

(a) No action will be taken by the court until the clerk receives a certified copy of the judgment from the clerk of the Supreme Court. Upon receipt, the clerk will reopen the case under the original docket number and will transmit a copy of the Supreme Court judgment and opinion to the panel that decided the matter (or the remaining two judges of that panel and one newly selected judge) or, if the en banc court decided the matter, to the chief judge. If a majority of the panel that decided the matter is unavailable, the case will be referred to a newly selected three judge panel.

(b) In a case in which a matter is referred to the en banc court, the en banc court may, by a majority vote of the active judges, (i) retain the case, (ii) refer the case to the panel that decided the case initially (or to the remaining two judges of that panel and one newly selected judge), or (iii) refer the case to a newly selected three judge panel.

3. Action by the court.

The en banc court or the panel may require the parties to file statements of their positions regarding the action to be taken by the court on remand. The en banc court or the panel may also require additional briefs, schedule oral argument, summarily dispose of the case, remand to the trial court, or take any other action consistent with the opinion of the Supreme Court.